

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1360-01
Bill No.: HB 633
Subject: Every member of immediate family must agree to durable power of attorney.
Type: Original
Date: March 5, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>All</u> State Funds	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Federal Funds	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds*	\$0	\$0	\$0

* Unknown revenues and expenditures to Federal Funds net to \$0.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 4 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Social Services - Division of Legal Services (DLS)** stated that last year, in Cole County, Missouri, some 60 durable powers of attorney were filed in the Recorder of Deeds office. Assuming the same number was filed in each county in Missouri, there were, at a minimum, some 6,900 durable powers of attorney executed and filed for record in 2000. Each of these powers of attorney would be invalidated. Assuming further that this is an average number of durable powers of attorney filed for a given year, some 34,500 durable powers of attorney were filed in the last 5 years; all of these would be invalidated by this statute.

The DLS states that it is reasonable to assume that at least 25% of the 34,500 invalidated durable powers of attorney would result in the necessity of the Division of Aging seeking guardianship for a variety of reasons, including discord in the family about who should be the attorney in fact. The DLS would have approximately 8,625 new guardianship cases in one year to work through its Litigation Unit (since these powers of attorney would invalidate at the same time). Of these new cases, the DLS further assumes that half, or 4,312, would result from invalidated durable powers of attorney. The DLS estimates that it would take 25 hours per case (in attorney time only) to resolve these cases and therefore, the DLS would have to find sufficient staff to work approximately 107,800 hours of attorney time (25 hours per case x 4,312 cases). The DLS attorneys have a work year of 2,080 hours. The DLS anticipates that it would require 52 additional full-time attorneys to handle the additional workload (107,800 hours/2,080 hours per attorney year = 52 new attorneys). Using a ratio of 1 FTE support staff for every 2 attorneys, 26 new FTE support staff would be required to handle the increased workload on recorded durable powers of attorney alone.

The DLS officials stated the majority of durable powers of attorney are not recorded in the State of Missouri, so the above estimate represents a fraction of the workload faced by the Department and the DLS in responding to the legislation. Further, the DLS would have to offer representation in ancillary matters attendant to this legislation. For example, if the only immediate family members are underage or otherwise incapacitated from offering knowing consent to a power of attorney's designation of an attorney in fact, it is conceivable that the DLS attorneys would be called in to participate in the appointments of limited guardian ad litem procedures to facilitate the execution of durable powers of attorney under the statute. Consequently, it is impossible to estimate the complete impact this litigation would have on the Department and the DLS.

Officials from the **Office of Attorney General** and **Department of Mental Health** stated the proposed legislation would not fiscally impact their organizations.

ASSUMPTION (continued)

Officials from the **Office of State Courts Administrator (CTS)** stated the proposed legislation would provide that a durable power of attorney cannot be executed until every member of the immediate family consents. The CTS anticipates one or more cases to test the parameters of the law, but does not anticipate a significant impact on the budget of the judiciary.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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GENERAL REVENUE FUND

Costs - Department of Social Services
Division of Legal Services

Additional staff FTE, fringe benefits, and equipment and expenses	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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FEDERAL FUNDS

Income - Department of Social Services

Additional staff FTE, fringe benefits, and equipment and expenses	Unknown	Unknown	Unknown
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Costs - Department of Social Services
Division of Legal Services

Additional staff FTE, fringe benefits, and equipment and expenses	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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NET ESTIMATED EFFECT ON FEDERAL FUNDS*	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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*** Unknown Federal Funds revenues and expenses net to \$0.**

<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
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<u>FISCAL IMPACT - Small Business</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This bill requires the written consent of all members of a grantor's immediate family before someone who has been granted a durable power of attorney may be appointed as the grantor's attorney in fact.

This legislation is not federally mandated and would not duplicate any other program. It could require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Social Services
Office of State Courts Administrator
Office of Attorney General
Department of Mental Health

A handwritten signature in black ink, appearing to read "Jeanne Jarrett".

Jeanne Jarrett, CPA
Director

March 5, 2001